

OPINION

Voters' class action may surprise Liberals

CANADIANS DON'T like to talk much about class. To do so seems either hoity-toity or suspiciously Red.

After all, this is the land of opportunity, where a little guy from Shawinigan can (after clawing his way to the top, making the right contacts and accumulating a pile of money) become prime minister.

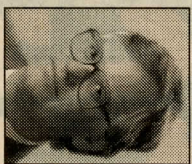
But increasingly in Canada, the class-based nature of politics is showing through.

This doesn't always manifest itself at election time. Indeed, it is important for political parties not to emphasize class during elections.

Parties tilted to the upper end have to be careful since there are always more voters at the bottom of the class pyramid than the top.

Conversely, the New Democrats, who have historically aimed themselves toward the less privileged, feel obliged to mute this rhetoric at election time in order to take account of the fact that most working-class Canadians do not like to think of themselves as such.

THOMAS WALKOM



So we go through these odd charades where the leaders of the right-wing parties wear denim shirts during election campaigns to show they are ordinary people and the leaders of the left wear suits to show they are businesslike.

Often it works. Mike Harris donned a leather jacket in 1995 and his Tories were elected in Ontario by a wide cross-section of voters from all social classes. Ditto for denim-shirted Jean Chr tien and his federal Liberals in 1993.

But increasingly, there has been a tendency for Canadians to respond to their governments in class terms. As always, it has been most

obvious with the Ontario Tories. Harris may have been elected by a cross-section of voters. But soon after, polls showed, the Ontario electorate began to polarize. Those who made a lot of money tended to like Harris. Those who made less tended not to.

Men preferred Harris. Women didn't. Older people supported him more than the young. (Age and sex may not be an accurate indicator of what a Marxist would call social class but since women and the young do tend to earn less, these categories do correlate to income.)

None of this appears to bother the Harris Tories who, through a unique method of arithmetic calculation known only to them, appear to have decided that they can win the next provincial election with the support of only middle-aged, well-to-do men living in the 905-area suburbs on the edge of Metro.

But a similar form of class polarization seems to be happening on the federal scene. And it does appear to have worried the federal Liberals.

Recent polls indicate that support for Chr tien's Liberals is breaking down along Harrian lines of class, gender and sex. Insofar as this gives the Liberals the votes of well-educated, middle-aged men with good incomes, the government is pleased.

At the same time, it worries it might forfeit support among so-called traditional Liberal voters, including women and the less well-to-do.

So the Liberals are making noises about health and even hinting at a national pharmaceutical program — all the kinds of things they think would appeal to those whom hard-nosed political operatives view as the squishier end of the electorate: women, vegetarians, animal lovers.

Given the Liberals' indifferent record on job creation, they may have more trouble coming up with plausible policies to woo lower-income voters. But here the denim shirt may come in handy once again. Or perhaps another photo of Chr tien water-skiing, playing softball or being otherwise engaged in some meaningless but vigorous

activity.

It would be intriguing, however, if the Liberal image-makers failed to succeed this time.

What would happen if those who feel increasingly left out by Chr tien's love affair with right-wing economics were not enticed back by the denim shirt? For whom would all of those women, vegetarians, animal lovers and not-so-rich people vote?

Conventional wisdom would assume those who found the Liberals' right-wing economic policy unappealing would vote for the only left-liberal party still extant — the NDP.

But voters do not always follow the conventional wisdom. In France, for example, former Communist voters dissatisfied with the right-wing policies of the current conservative government switched their allegiance to the neo-fascist National Front.

The continued polarization of Canadian politics along class lines could lead to some equally surprising results.

Thomas Walkom's column appears on Monday.

Police silence is not golden

Officers must be required to tell what they know of shootings

By PETER ROSENTHAL

Much has been discussed recently about the rights and responsibilities of police officers involved in shootings, but several points have not been mentioned.

When a police officer kills someone in Ontario, the Police Services Act mandates the special investigations unit (SIU) to determine whether criminal charges should be laid against any officer.

One of the most controversial aspects of the SIU has been the requirement that police officers "co-operate" with its investigators. Many lawyers interpret this provision of the Police Services Act as including a responsibility on the part of all officers who have information about a shooting to provide what they know to the SIU.

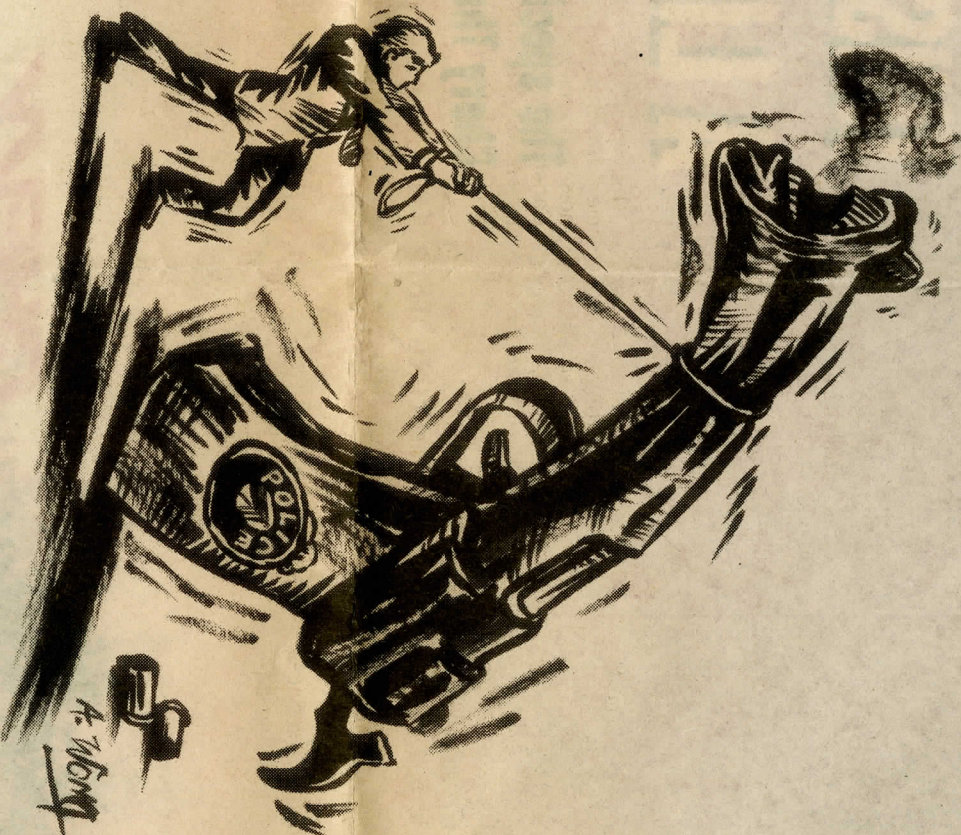
However, the Metropolitan Toronto Police Association says that officers who might be charged with an offence need not provide statements to the SIU. Former Metro police chief William McCormack stated such officers had some "rights and privileges afforded by the Charter of Rights and Freedoms" that limited their responsibility to answer to the SIU.

The SIU now operates under a "protocol," an informal agreement which divides involved officers into "subject officers" and "witness officers."

A subject officer is one who might be charged with respect to the killing; all others are witness officers. According to the protocol, witness officers must answer questions by SIU investigators, but subject officers need not.

The first problem with this: How can the SIU possibly know which officers are subject officers until it completes its investigation?

A more fundamental problem: The evidence of the officer who did the shooting is often crucial. In many cases, the only officer present was the one who killed the victim.



ALFRED WONG FOR THE TORONTO STAR

It is often asserted that "subject officers" have some Charter right to keep silent, but that is not at all clear. In fact, four police officers (those who brought Kenneth Allen into custody, one of whom dragged Allen by the neck; Allen's death will be investigated at an upcoming inquest) made an application to the Divisional Court asking it to assert the existence of such a Charter right.

The court refused to deal with the matter, since McCormack had not ordered the officers to speak to the SIU, so there was no real issue.

Thus, no such Charter right has been established.

Should a police officer who kills someone be required to explain why

and what happened?

If someone has the right to use a gun to kill people, that person must also have the responsibility of answering investigators' questions.

Analogous situations exist in other professions.

Lawyers, for example, have their trust accounts audited by the Law Society of Upper Canada. If something is suspicious about a lawyer's trust account records, the auditors will ask for an explanation. If the lawyer fails to answer such inquiries, he or she will be disciplined by the law society, and face penalties up to disbarment.

Does a lawyer have a right under the Charter to refuse to answer questions

put by law society auditors? I don't believe it has ever been tested, but I would argue that it would be held that there is no such Charter right. The right lawyers have to hold large sums of money in trust for clients gives them the responsibility of explaining to auditors what has happened to the funds.

Similarly, it seems very unlikely that the courts would establish some Charter right for police officers to kill people and refuse to explain why. At the inquest into the death of Raymond Lawrence several years ago, the coroner's jury recommended the province regulate the interaction between police forces and the SIU.

That has not been done. If it were, and if the regulations stated that any officer who failed to respond to questions from the SIU would be disciplined, that would focus the issue.

Alternatively, the Metropolitan Toronto Police Services Board could establish such a provision for members of the Metro force.

Of course, officers who refused to answer questions would always have the option of resigning to preclude disciplinary proceedings against them. But if an officer involved in a killing wished to remain on the force, he or she would have to answer the questions of the SIU investigators.

The Metropolitan Toronto Police Association, or any individual officer, would be free to mount a Charter challenge to any such regulation. I'm confident that such a challenge would fail. But the situation cannot be clarified until some civilian authority requires all officers to answer SIU questions.

The Ontario government and the Metropolitan Toronto Police Services Board should both establish such authority. Until that happens, we will not have appropriate civilian control over police shootings because SIU investigations will inevitably be inadequate.

Peter Rosenthal is a lawyer with Roach, Schwartz and Associates, and a professor of mathematics at the University of Toronto. He has acted at several coroner's inquests into police shootings, including one that examined the role of the special investigations unit.

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